



Received 10/16/06
MSHA/OSRV

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October 16, 2006

Mine Safety and Health Administration
Office of Standards, Regulations and Variances
1100 Wilson Blvd., Room 2350
Arlington, Virginia 22209-3939

Re: MSHA Request for Information – Program Policy Letter P06-V-9, Emergency Response Plan, Post Accident Breathable Air

Dear Sir of Madam:

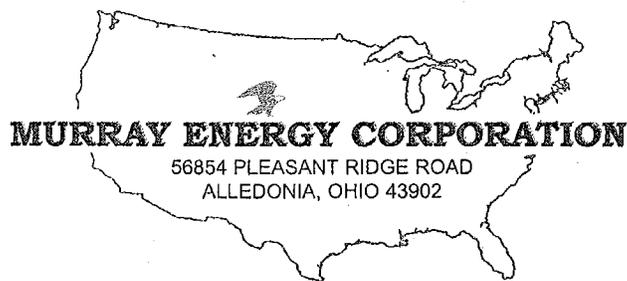
The following comments are being submitted in response to MSHA's Request for Information applicable to Program Policy Letter P06-V-9.

Murray Energy Corporation appreciates the opportunity to respond to MSHA's Request for Information on the above captioned PPL.

Sincerely,

Jerry M. Taylor
Corporate Safety Director

PPL-P06-V-9-COMM-7



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MSHA Request for Information
Program Policy Letter P06-V-9
Section 2 of MINER Act;
Emergency Response Plan,
Post Accident Breathable Air

COMMENTS

Great care must be taken to ensure that MSHA does not interpret the MINER Act or establish requirements for Emergency Response Plans that result in any confusion over the first principle of survival in mine emergencies, "that miners should always first attempt to escape from the mine."

MSHA's Request for Information, seeks comments on three provisions identified in the MINER Act, emergency supplies of breathable air, oxygen sources, and emergency shelters. These three provisions are interrelated and should not be looked at individually for rule making purposes.

The MINER Act requires NIOSH to conduct research on the use of various refuge alternatives in an underground coal mine environment. Obviously, methods to supply quantities of breathable air for trapped miners within these shelters, and the ability to store or generate oxygen must be considered an important part of this research. To require implementation of the breathable air standard, other than currently approved self contained self rescuers for evacuation purposes, prior to NIOSH completing its research would be premature.

We believe that is also premature to introduce pressurized vessels and pipelines, or chemical oxygen generating sources into the miner's workplace until criteria has been developed to ensure these systems are engineered and designed so they do not pose a risk to the miners. MSHA should utilize NIOSH to identify the potential hazards or risks associated with chemical oxygen generation and the storage and transportation of compressed air and oxygen in the mining environment. Once these risks have been identified, safeguards must be developed and implemented to provide protection protect the miners.

Murray Energy Corporation also encourages NIOSH to work closely with industry specialists to develop an approved SCSR that is portable, rechargeable, and designed to facilitate oral communications, and the consumption of food and liquids. Considering the history of mine fires that resulted in explosions, and mine explosions that were followed by secondary explosions, we believe the miners should be afforded the opportunity to attempt evacuation from the mines with breathing devices that will protect them from the potential toxic atmospheres. Although some operators may choose to use one of the various shelters that are, or will be available in the near future, alternative methods of providing protection for the miners should not be neglected or dismissed.

Murray Energy Corporation urges the agency not to mandate the use of emergency shelters for Emergency Response Plans under Section 2 of the MINER Act until NIOSH completes its evaluation of emergency shelters required by Section 13 of the Act. If upon completion of the NIOSH research, it is determined that emergency shelters are appropriate, we believe the design and location of these shelters, provisions for supplies, including quantities of breathable sufficient to sustain trapped miners should be predicated upon a risk-based, site-specific analysis of the conditions at each mine. This is necessary, given the wide range of mine sizes and seam heights, as well as the multitude of geologic conditions and mining plans present throughout the coal industry. A one size fits all requirement is inappropriate and unnecessary.

Any final rule should be performance based and encourage the adoption of new technology to afford miners enhanced protection by empowering an operator's ability to use technology without unnecessary encumbrance.